



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,855	02/27/2002	Micheline Schulte	153314.90017	4603
26707	7590	02/16/2005	EXAMINER	
QUARLES & BRADY LLP RENAISSANCE ONE TWO NORTH CENTRAL AVENUE PHOENIX, AZ 85004-2391			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,855

Applicant(s)

SCHULTE, MICHELINE

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13,15,19-21 and 27-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-13,15,19-21 and 27-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3728

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2 and 4-8 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Koptis (6,007,264) in view of Smith et al. (5,242,433) and Swanson et al. (4,548,608). Claims 1-2, 4-8, 27-28 and 31 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lustbader et al. (2003/0118535) in view of Smith et al. ('433) and Swanson et al.. Koptis and Lustbader et al. each disclose a hair removal system from the skin including a hair removal solution (see col. 15, lines 39-53; page 1, section 0002; respectively) and a package (3; page 1, section 0011). Smith et al. discloses an application system for applying solution to the skin including a first pad (20) and a package (10). To modify the system of either one of Koptis and Lustbader et al. employing the application teaching of Smith et al. would have been obvious in order to easily apply solution to the skin via a pad, as suggested by Smith et al.. Swanson et al. discloses a conventional hair removal solution having ingredients of about 3% weight per volume calcium hydroxide (disclosed in the range of 1-4% in the Abstract) and about 2% weight per volume thioglycolic acid (disclosed in the range of 0.45-5% of sodium thioglycolate in the Abstract, applicant describing at page 7, lines 4-9 that sodium thioglycolate is a thioglycolic acid). To employ a particular hair removal solution as claimed by applicant would have been within those hair removal solutions previously

known, and its particular selection would fail to provide the claimed system with any new and unobvious result by its selection.

As to claim 2, Smith et al. disclose the pad to be of a porous material (see col. 5, lines 43-52).

As to claim 4, Smith et al. disclose a package including first and second pieces of material (14 and 12 or one of 12' and 12").

As to claim 5, Smith et al. disclose a package including a third piece of material (the remainder of 12' and 12") opposing the first piece of material and forming a second inner pouch on an opposing side from the first inner pouch.

As to claim 6, Smith et al. disclose impregnating the pad (20) with solution.

As to claim 7, Smith et al. disclose a second pad (22).

As to claim 8, the package is sealed.

3. Claims 9-13, 27 and 29-30 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Koptis (6,007,264) in view of Smith et al. (5,242,433). Claims 9-13, 27 and 29-30 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lustbader et al. (2003/0118535) in view of Smith et al. ('433). Koptis and Lustbader et al. each disclose a hair removal system from the skin including a hair removal solution (see col. 15, lines 39-53; page 1, section 0002; respectively) and a package (3; page 1, section 0011). Smith et al. discloses an application system for applying solution to the skin including a first pad (20) and a package (10) and including first and second pieces of material (14 and 12 or one of 12' and 12") defining separate first and second pouches

(at 12' and 12") with a solution and pad in one pouch and a different solution and pad in the other (see col. 8, lines 21-33 and col. 9, lines 19-62). To modify the system of either one of Koptis and Lustbader et al. employing the application teaching of Smith et al. would have been obvious in order to easily apply solution to the skin via a pad, as suggested by Smith et al..

As to claim 10, Smith et al. disclose a package including a third piece of material (the remainder of 12' and 12") opposing the first piece of material and forming a second inner pouch on an opposing side from the first inner pouch.

As to claims 11 and 29, Smith et al. disclose impregnating the pad (20) with solution.

As to claim 12, Smith et al. disclose a second pad (22).

As to claim 13, Smith et al. disclose the pad to be of a porous material (see col. 5, lines 43-52).

As to claim 30, to employ a cleaning solution in conjunction with a hair removal solution would have been obvious, as cleaning and removing the hair is disclosed by Lustbader et al. (see page 2, sections 0021-0027).

4. Claims 15 and 19-21 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Koptis in view of Smith et al. ('433) and Swanson et al.. Claims 15 and 19-21 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lustbader et al. in view of Smith et al. ('433) and Swanson et al.. Koptis, Lustbader et al., Smith et al. and Swanson et al. have been explained above. To provide the system

as claimed would have been obvious in view of either one of Koptis and Lustbader et al. in view of Smith et al. and Swanson et al. for the reasons given in the previous paragraph.

As to claim 19, Smith et al. disclose a package including a third piece of material (the remainder of 12' and 12") opposing the first piece of material and forming a second inner pouch on an opposing side from the first inner pouch.

As to claim 20, to impregnate the pad with hair removal solution would have been obvious in order to facilitate applying to the skin.

As to claim 21, Smith et al. discloses a second pad (22).

6. Claim 5 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Koptis (6,007,264) in view of Smith et al. (5,254,109) and Swanson et al. (4,548,608). Claim 5 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lustbader et al. (2003/0118535) in view of Smith et al. ('109) and Swanson et al.. Koptis and Lustbader et al. each disclose a hair removal system from the skin including a hair removal solution (see col. 15, lines 39-53; page 1, section 0002; respectively) and a package (3; page 1, section 0011). Smith et al. discloses an application system for applying solution to the skin including a first pad (20) and a package (10). To modify the system of either one of Koptis and Lustbader et al. employing the application teaching of Smith et al. would have been obvious in order to easily apply solution to the skin via a pad, as suggested by Smith et al.. Swanson discloses a conventional hair removal solution having ingredients of about 3% weight per volume calcium hydroxide (disclosed

in the range of 1-4% in the Abstract) and about 2% weight per volume thioglycolic acid (disclosed in the range of 0.45-5% of sodium thioglycolate in the Abstract, applicant describing at page 7, lines 4-9 that sodium thioglycolate is a thioglycolic acid). To employ a particular hair removal solution as claimed by applicant would have been within those hair removal solutions previously known, and its particular selection would fail to provide the claimed system with any new and unobvious result by its selection.

7. Claim 19 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Koptis in view of Smith et al. ('109) and Swanson et al.. Claim 19 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lustbader et al. in view of Smith et al. ('109) and Swanson et al.. Koptis, Lustbader et al., Smith et al. and Swanson et al. have been explained above. To provide the system as claimed would have been obvious in view of either one of Koptis and Lustbader et al. in view of Smith et al. and Swanson et al. for the reasons given in the previous paragraph.

8. Claims 27 and 30 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Koptis (6,007,264) in view of Hurwood (4,332,319). Claims 27 and 30 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lustbader et al. (2003/0118535) in view of Hurwood. Koptis and Lustbader et al. each disclose a hair removal system from the skin including a hair removal solution (see col. 15, lines 39-53; page 1, section 0002; respectively) and a package (3; page 1, section 0011). Hurwood discloses an application system for applying solution to the skin including a first pouch

Art Unit: 3728

and applicator pad (13) and a second pouch and solution (14) applied to the skin. To modify the system of either one of Koptis and Lustbader et al. employing the application teaching of Hurwood would have been obvious in order to easily apply solution to the skin via a pad, as suggested by Hurwood.

As to claim 30, Hurwood disclose impregnating the pad (13) with cleaning solution to prepare the skin prior to application of the second pouch contents.

As to claim 12, Smith et al. disclose a second pad (22).

As to claim 13, Smith et al. disclose the pad to be of a porous material (see col. 5, lines 43-52).

9. Claims 28 and 31 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 27 and 9 above, and further in view of Swanson et al.. Swanson et al. discloses a conventional hair removal solution having ingredients of about 3% weight per volume calcium hydroxide (disclosed in the range of 1-4% in the Abstract) and about 2% weight per volume thioglycolic acid (disclosed in the range of 0.45-5% of sodium thioglycolate in the Abstract, applicant describing at page 7, lines 4-9 that sodium thioglycolate is a thioglycolic acid). To employ a particular hair removal solution as claimed by applicant would have been within those hair removal solutions previously known, and its particular selection would fail to provide the claimed system with any new and unobvious result by its selection.

10. Applicant's arguments with respect to claims 1-2, 4-13, 15, 19-21 and 27-31 have been considered but are moot in view of the new ground(s) of rejection. The prior art to Swanson et al. indicates the claimed solution of calcium hydroxide and thioglycolic acid (sodium glycolate) to be conventional even down to the claimed weight ratios. The prior art to Smith et al. ('109) demonstrates that pouches on opposed sides of a first material were known.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

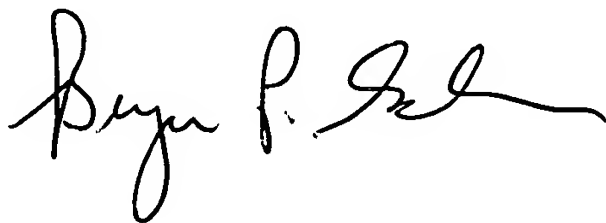
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571)

Art Unit: 3728

272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-4555.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Bryon P. Gehman', with a stylized flourish at the end.

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG